



General Assembly

January Session, 2001

Raised Bill No. 7018

LCO No. 5051

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING HABEAS CORPUS PROCEEDINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-466 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) (1) An application for a writ of habeas corpus by or on behalf of a
4 person committed to the custody of the state as a result of a criminal
5 conviction shall be made to the superior court or a judge thereof for a
6 judicial district designated by the Chief Court Administrator. If an
7 application is filed in the superior court for a judicial district other than
8 a designated judicial district, the clerk of the court where the
9 application was filed shall transfer the application to the clerk of the
10 superior court for the designated judicial district.

11 (2) An application for a writ of habeas corpus by or on behalf of a
12 person other than a person committed to the custody of the state as a
13 result of a criminal conviction shall be made to the superior court or to
14 a judge thereof for the judicial district in which the person whose
15 custody is in question is claimed to be illegally confined or deprived of
16 [his] such person's liberty. [provided any application made by or on

17 behalf of a person confined in the Connecticut Correctional Institution,
18 Enfield-Medium or the Carl Robinson Correctional Institution, Enfield,
19 shall be made to the superior court or a judge thereof for the judicial
20 district of Tolland.]

21 Sec. 2. Subsection (b) of section 52-470 of the general statutes is
22 repealed and the following is substituted in lieu thereof:

23 (b) No appeal from the judgment rendered in a habeas corpus
24 proceeding brought [in order to obtain his release] by or [in] on behalf
25 of [one] a person who has been convicted of crime in order to obtain
26 such person's release may be taken unless the appellant, within [ten]
27 twenty days after the case is decided, petitions the judge before whom
28 the case was tried or a judge of the Supreme Court or Appellate Court
29 to certify that a question is involved in the decision which ought to be
30 reviewed by the court having jurisdiction and the judge so certifies.
31 The judge to whom a petition for certification to appeal is made shall
32 render a decision thereon granting or denying such petition. A
33 decision to deny a petition shall be final and there shall be no right to
34 further review.

35 Sec. 3. Section 51-296 of the general statutes is amended by adding
36 subsection (d) as follows:

37 (NEW) (d) Prior to the filing by an inmate of an application for a
38 writ of habeas corpus, a public defender, assistant public defender,
39 deputy assistant public defender or special public defender, upon a
40 determination that such inmate is indigent pursuant to subsection (a)
41 of section 51-297 and notice to the state's attorney for the judicial
42 district in which such inmate is confined, shall be authorized to
43 represent such inmate and file an application for a writ of habeas
44 corpus on behalf of such inmate. Such public defender, assistant public
45 defender, deputy assistant public defender or special public defender
46 may represent the inmate until the court appoints counsel for such
47 inmate.

48 Sec. 4. (NEW) If an application for a writ of habeas corpus is made
49 by or on behalf of a person committed to the custody of the state as a
50 result of a criminal conviction and such application seeks relief based
51 on the conditions of confinement of such person, it shall be a defense
52 to such application that the person has failed to exhaust any
53 administrative remedies available to such person for the redress of the
54 conditions of which such person complains.

55 Sec. 5. Section 51-36 of the general statutes is repealed and the
56 following is substituted in lieu thereof:

57 (a) The Chief Court Administrator may cause any and all court
58 records, papers or documents other than records concerning title to
59 land, required to be retained indefinitely or for a period of time
60 defined by (1) rules of court, (2) directives promulgated by the Office
61 of the Chief Court Administrator, or (3) statute, to be microfilmed. The
62 device used to reproduce such records on film shall be one which
63 accurately reproduces the original thereof in detail. Such microfilm
64 shall be considered and treated the same as the original records,
65 papers or documents, provided a certificate of authenticity appears on
66 each roll of microfilm. A transcript, exemplification or certified copy
67 thereof shall for all purposes be deemed to be a transcript,
68 exemplification or certified copy of the original. The original court
69 records, papers or documents so reproduced may be disposed of in
70 such manner as approved by the Office of the Chief Court
71 Administrator. For purposes of this subsection, microfilm shall include
72 microcard, microfiche, microphotograph, electronic medium or any
73 other process which actually reproduces or forms a durable medium
74 for so reproducing the original.

75 (b) [Any] Except as provided in subsection (c) of this section, any
76 judge of the Superior Court may order that official records of evidence
77 or judicial proceedings in said court, the Court of Common Pleas or the
78 Circuit Court, including official notes and tapes of evidence or judicial
79 proceedings concerning title to land, taken more than seven years prior

80 to the date of such order by any stenographer or official court reporter,
81 be destroyed by the person having the custody thereof.

82 (c) In cases in which there has been a conviction of a felony,
83 including a capital felony, the official records of evidence or judicial
84 proceedings in the court shall not be destroyed until the expiration of
85 twenty years from the date of disposition or until the expiration of the
86 sentence, whichever is later. For purposes of this section, official
87 records of evidence or judicial proceedings include the unstripped
88 court file, all exhibits from the parties whether marked for
89 identification or admitted as full exhibits and the transcripts of all
90 proceedings held in the matter including voir dire.

91 ~~[(c)]~~ (d) All court records other than records concerning title to land
92 may be destroyed in accordance with rules of court. Records
93 concerning title to land shall not be subject to any such destruction,
94 except that official notes and tapes of evidence or judicial proceedings
95 concerning title to land may be destroyed. All court records may be
96 transferred to any agency of this state or to any federal agency in
97 accordance with rules of court or directives promulgated by the Office
98 of the Chief Court Administrator, provided records in any action
99 concerning title to land terminated by a final judgment affecting any
100 right, title or interest in real property shall be retained for not less than
101 forty years in the office of the clerk of the court location in which the
102 judgment was rendered. Any other Judicial Department books,
103 records, papers or documents may be destroyed or transferred to any
104 agency of this state or to any federal agency in accordance with
105 directives promulgated by the Office of the Chief Court Administrator.

Statement of Purpose:

To authorize the consolidation of venue for habeas corpus applications, to eliminate the right to appeal the denial of a petition for certification to appeal, to authorize public defenders to represent inmates prior to the filing of a habeas corpus application, to require exhaustion of administrative remedies in conditions of confinement

claims and to ensure the availability of records and exhibits that are necessary for habeas corpus proceedings.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]